Remarks

This Response is provided in response to a non-final Office Action mailed August 26, 2004. The Office Action rejected claims 1-15 under 35 U.S.C. §112, second paragraph, and further rejected claims1-15 under 35 U.S.C. §102(e) as being anticipated by prior art.

Specification Amendments

The Applicant has hereinabove provided minor amendments to the specification. The specification has been amended to correct clerical errors present in the application as originally filed: "multiple data sources/input source 14" has been changed to "multiple data sources/input source 24" on page 14, and "client 22" has been changed to "client 20" on pages 17 and 18. No new matter has been introduced by the amendments to the specification.

Claim Amendments

The hereinabove amendments to the claims do not introduce new matter, and have been made in response to the rejection of claims 1-15 under 35 U.S.C. §112, second paragraph. The hereinabove amendments have not been made for reasons of patentability brought about by prior art based rejections, that is rejections based on either 35 U.S.C. §102, or 35 U.S.C. §103.

Rejection of Claims Under 35 U.S.C. §112

The Office Action rejected claims 1-15 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention because as per claims 1, 5, 9, and 13, the Applicant states preparing media for delivery via said content distribution system and "storing" delivery information.

To obviate this rejection, the Applicant has amended claims 1, 5, and 9 to include the limitation of "storing, in a database of a network operation center, delivery information," and has amended claim 13 to include the limitation of "wherein said streaming media is stored as a media stream in storage devices of each of the plurality of

servers." Support for the amendments to claims 1, 5, and 9 may be found within the specification on page 14, beginning on line 14 and extending through line 18. Support for the amendment to claim 13 may be found by referring to FIGS. 5 and 6 of the drawings, and within the specification beginning on page 7, line 29, and extending through line 17 of page 9. Accordingly, the Applicant requests withdrawal of the rejection of claims 1-15 under 35 U.S.C. §112, and passage of same to allowance.

Rejection of Claims Under 35 U.S.C. §102(e)

The Office Action rejected claims 1-15 under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,721,789 issued to Michael A. DeMoney, April 13, 2004 (DeMoney '789). The Applicant respectfully traverses the foregoing rejection and submits that the claimed invention as claimed on January 29, 2001 is, under 35 U.S.C. §102(e) patentable over DeMoney '789 "as every element of the claimed invention," see, In re Bond, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990), is not identically shown by DeMoney '789.

INDEPENDENT CLAIM 1

DeMoney '789 fails to show the claim elements *"analyzing client media reception bandwidth and connection capabilities based on a request for media by said client,"* of Applicant's independent claim 1.

DeMoney '789 shows "a detailed diagram of a video storage manager 206 is shown. The video storage manager 206 includes a request processor 402 which interfaces client requests to stream managers 404. Each stream manager 404 maintain a buffer ring 405. A separate stream manager 404 corresponds to each continuous multimedia stream. A file system 406 is provided for mapping stream accesses to the storage systems 204. Disks schedulers 408 are provided for each storage system 204 to manage to flow of storage accesses to each storage system. Each disk scheduler may include a deadline queue for 410, as described in more detail below," (col. 10, lines 30-41).

DeMoney '789 goes on to show, "Requests are migrated from the deadline and priority queues by a bandwidth allocator 710, according to a cycle which allocates

bandwidth according to a configurable allocation. For example, 90 percent of a particular storage system's bandwidth may be assigned to the deadline queue and thus guaranteed rate stream clients, and 10 percent assigned to the priority queue for available rate clients. The bandwidth allocator 710 may migrate requests from the deadline and priority queues to a seek reorder queue 750," (col. 16, lines 9-17). In other words, DeMoney '789 shows a bandwidth allocator configured to allocate bandwidth of the storage system between the guaranteed rate queue and the non-rate-guaranteed queue according to a predetermined ratio, and fails to show: analyzing client media reception bandwidth and connection capabilities based on a request for media by said client; and determining from said request information and said delivery information and substantially in real-time if said client can receive the requested said media within selected system constraints, as limitations claimed by the Applicant as his invention.

Accordingly, the Examiner has failed to provide a prima facie case of anticipation by DeMoney '789 of the Applicant's invention as claimed by claim 1. Therefore, the Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1, as well as reconsideration and withdrawal of the rejections to claims 2-4 depending therefrom, and passage of claims 1-4 to allowance.

INDEPENDENT CLAIM 5

DeMoney '789 fails to show the claim elements *"analyzing request information transmitted from a client via a request for media, said request information comprising client identification; and determining from said delivery information and said request information and substantially in real-time if said client is authorized to receive the requested media,"* of Applicant's independent claim 5.

For substantially the same reasons given hereinabove for traversal of the rejection of claim 1, based on the similarity between the limitations of independent claim 1, and independent claim 5, the Applicant traverses the rejection of independent claim 5, under 35 U.S.C. §102(e), as being anticipated by DeMoney '789. Therefore, the Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 5, as well as

reconsideration and withdrawal of the rejections to claims 6-8 depending therefrom, and passage of claims 5-8 to allowance.

INDEPENDENT CLAIM 9

DeMoney '789 fails to show the claim elements *"analyzing request information transmitted from a client via a request for media, said request information comprising client identification; and determining from said delivery information and said request information and substantially in real-time if said client is authorized to receive the requested media,"* of Applicant's independent claim 9.

For substantially the same reasons given hereinabove for traversal of the rejection of claim 1, based on the similarity between the limitations of independent claim 1, and independent claim 9, the Applicant traverses the rejection of independent claim 9, under 35 U.S.C. §102(e), as being anticipated by DeMoney '789. Hence, the Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 9, as well as reconsideration and withdrawal of the rejections to claims 10-12 depending therefrom, and passage of claims 9-12 to allowance.

INDEPENDENT CLAIM 13

DeMoney '789 fails to show the claim element, *"an operations center for dynamically determining which of said servers are to serve which of a plurality of media streams and for redirecting clients to other said servers when the corresponding one of said servers does not store a requested media stream,"* of Applicant's independent claim 13. DeMoney '789 further fails to show the claim element, *"a transport module operable to analyze communications between a client and one of said servers, which comprise a request for one of said media streams and a response, substantially in real-time to determine if said client can receive said media stream within selected system constraints,"* of Applicant's independent claim 13. In other words, DeMoney '789 is completely silent and fails to show analyzing the actual capability of the CLIENT for receiving a media stream of specific attributes requested by the CLIENT, and providing streaming media to the CLIENT based

on the actual capability of the CLIENT, rather than providing streaming media to the CLIENT based on the specific attributes of the media stream requested by the CLIENT.

Accordingly, the Applicant traverses the rejection of independent claim 13, under 35 U.S.C. §102(e), as being anticipated by DeMoney '789, and respectfully requests reconsideration and withdrawal of the rejection of claim 13, as well as reconsideration and withdrawal of the rejections to claims 14 and 15 depending therefrom, and passage of claims 13-15 to allowance.

Conclusion

The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application. This Response is intended to be a complete response to the non-final Office Action mailed August 26, 2004.

Should any questions arise concerning this response, the Examiner is invited to contact the below listed Attorneys.

Respectfully submitted,

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